



7/20/09

DAC

TFW

PTO/SB/64 (06-09)

Approved for use through 07/31/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
64995(70904)

First named inventor: Kazuhiro Kondo

Application No: 10/570,589-Conf. #5282

Art Unit: N/A

Filed: February 28, 2006

Examiner: Not Yet Assigned

Title: RECOMBINANT VIRUS VECTOR ORIGINATING IN HHV-6 OR HHV-7 METHOD OF  
PRODUCING THE SAME, METHOD OF TRANSFORMING HOST CELL USING THE  
SAME, HOST CELL TRANSFORMED THEREBY AND GENE THERAPY METHOD USING  
THE SAME

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status.  
See 37 CFR 1.27.

☒ Other than small entity – fee \$ 1,620.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of Response to Notice of Defective Response (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_
- ☐ is enclosed herewith.

07/21/2009 DIRECTOR 00000008 041105 10570589

01 FC:1453 1620.00 DA

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

#### WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
Signature

7-16-09  
Date

Gregory B. Butler, Ph.D., Esq.  
Typed or printed name

34,558  
Registration Number, if applicable

EDWARDS ANGELL PALMER & DODGE LLP  
P.O. Box 55874  
Boston, Massachusetts 02205  
Address

(617) 517-5595  
Telephone Number

- Enclosures:
- ☒ Fee Payment
  - ☐ Reply
  - ☐ Terminal Disclaimer Form
  - ☐ Additional sheets containing statements establishing unintentional delay
  - ☒ Other: Sequence Listing with pertinent documents



Docket No.: 64995(70904)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Kazuhiro Kondo et al.

Application No.: 10/570,589

Confirmation No.: 5282

Filed: August 30, 2004

Art Unit: N/A

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

Examiner: Not Yet Assigned

**PETITION FOR REVIVAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. In this instance, the Notice was a "Notification of Defective Response". The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

On March 12, 2007, we received a "Notification of Missing Requirements under 35 USC 371 in the United States" (see Exhibit A) which listed a Sequence Listing in computer readable form as one of the missing requirements. Another attorney who is no longer with our firm was handling this application at that time. He filed a response to the Notification on June 12, 2007 (see Exhibit B). However, his response did not include a required statement that the Sequence Listing "includes no new matter" which was why Applicants believed the "Notification of Defective Response" was mailed by

the United States Patent and Trademark Office (USPTO) on June 13, 2008 (see Exhibit C).

On July 11, 2008, the undersigned attorney provided a Response to the "Notification of Defective Response" (see Exhibit D), which included a Sequence Listing in computer readable form and a statement that the Sequence Listing "included no new matter."

Another "Notification of Defective Response" was mailed on September 12, 2008 (see Exhibit E) by the USPTO because the computer readable form of the Sequence Listing that was mailed with the response on July 11, 2008 was found to be damaged and unreadable, which the undersigned attorney assumed must have occurred in transit to the USPTO. Thus, the undersigned attorney mailed a substitute Sequence Listing in computer readable form to the USPTO on October 14, 2008 (see Exhibit F).

Please note that the undersigned attorney was not sent a copy of the SCORE CRF Problem Report with the "Notification of Defective Response". Subsequently, Applicants received a Notice of Abandonment on June 9, 2009 (see Exhibit G).

Following a discussion with Examiner Francine Young on June 19, 2009, the Examiner was kind enough to fax the undersigned attorney a copy of the SCORE CRF Problem Report (see Exhibit H).

Upon investigation with an outside consultant and an Examiner at the Patent Software Program Help desk on June 23, 2009, the SCORE CRF Problem Report indicated that "Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application), leading the undersigned attorney to believe the prior listing was objected to because of incorrect cursory information. This, in fact, was not true.

Through additional discussions with the Examiner on June 23, 2009, the undersigned attorney learned that the prior listing had not been saved to the disc in the

requisite ASCII format (.txt) which was not marked on the SCORE CFR Problem Report. Consequently, Applicants had no way of knowing what was defective with this CFR.

Because of the above, the undersigned attorney has taken the following actions in our Sequence Listing which is being concurrently submitted herewith:

- Updated the cursory information to reflect the instant case (to add the serial number 10/570,589)
- Saved the Sequence Listing in ASCII format (.txt)

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. It is submitted, therefore, that on the basis described above the abandonment should be held to be inadvertent, the enclosed Sequence Listing and pertinent documents should be entered and the case revived.

Please charge our Deposit Account No. 04-1105 in the amount of \$1,620.00 covering the fee set forth in 37 CFR 1.17(m). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 64995(70904).

Dated:

Respectfully submitted,

By 

Gregory B. Butler, Ph.D., Esq.

Registration No.: 34,558

Customer No. 21874

EDWARDS ANGELL PALMER & DODGE  
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 517-5595

Attorneys/Agents For Applicant



## UNITED STATES PATENT AND TRADEMARK OFFICE

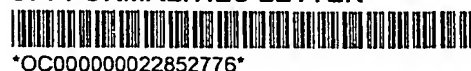
UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

INTERNATIONAL APPLICATION NO.	
PCT/JP04/12487	
I.A. FILING DATE	PRIORITY DATE
08/30/2004	08/29/2003

21874  
 EDWARDS & ANGELL, LLP  
 P.O. BOX 55874  
 BOSTON, MA 02205

CONFIRMATION NO. 5282  
 371 FORMALITIES LETTER



\*OC000000022852776\*

Date Mailed: 03/12/2007

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Biochemical Sequence Listing filed on 02/28/2006
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is \$1000 for a Large Entity:

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37

FILED ON SYSTEM  
 SEE OTHER SIDE

CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

- The fee for submitting a specification and drawing containing more than 100 pages has not been paid in full. Applicant owes \$1000 for 175 pages in excess of 150 pages for a large entity.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

Telephone: (703) 308-9140 EXT 215

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/570,589	PCT/JP04/12487	6499570904

Atty Docket No.: 64995(70904)

Inventor: Kazuhiro Kondo

Application No.: 10/570,589

Filing Date: February 28, 2006

Title: RECOMBINANT VIRUS VECTOR ORIGINATING IN HHV-6 OR HHV-7 METHOD OF PRODUCING THE SAME, METHOD OF TRANSFORMING HOST CELL USING THE SAME, HOST CELL TRANSFORMED THEREBY AND GENE THERAPY METHOD USING THE SAME

**Documents Filed:**

Certificate of Express Mailing (1 page)

Part 2 Copy of Notice (2 pages)

One Month Request for Extension of Time Under 37 CFR 1.136(a) (1 page)

Return Receipt Postcard

Fee Transmittal (1 page)

Charge \$250.00 to deposit account 04-1105

Response to Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office (DO/EO/US) (2 pages)

Combined Declaration and Power of Attorney (4 pages)

Sequence Listing Diskette

Sequence Listing Paper Copy (222 pages)

Statement Pursuant to 37 CFR 1.821(f) (2 pages)

Via: Express Mail: Airbill No. EV 809094404 US

Sender's Initials: SBW/nmm(mq)

Date: June 12, 2007



**EDWARDS ANGELL PALMER DODGE LLP**  
Intellectual Property Practice Group  
P.O. Box 55874  
Boston, MA 02205





EV 809094404 US

Mailing Label  
Label 11-F, April 2004

UNITED STATES POSTAL SERVICE®

Post Office To Addressee



EV 809094404 US



UNITED STATES POSTAL SERVICE®

Post Office To Addressee

Customer Copy  
Label 11-F, April 2004

<b>ORIGIN (POSTAL SERVICE USE ONLY)</b>		<b>DELIVERY (POSTAL SERVICE USE ONLY)</b>	
PO ZIP Code 02199	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd Day	Delivery Attempt <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Date Accepted 4/12/07	Scheduled Date of Delivery Month 4 Day 12	Time 12:00 PM	Employee Signature
No. Day Year 4/12/07	Scheduled Time of Delivery <input checked="" type="checkbox"/> Non-Military <input type="checkbox"/> Military	Time 12:00 PM	Employee Signature
Flat Rate <input type="checkbox"/> Weight <input checked="" type="checkbox"/>	Int'l Alpha Country Code	Time 12:00 PM	Employee Signature
lbs. ozs. 2 1	2nd Day <input type="checkbox"/> 3rd Day <input type="checkbox"/>	Time 12:00 PM	Employee Signature
Postage \$ 2.50		NO DELIVERY <input type="checkbox"/> Weekday <input type="checkbox"/> Holiday <input type="checkbox"/>	
Return Receipt Fee \$		Waiver of Signature (Domestic Mail Only): Additional insured postage insurance is void if waiver of signature is requested. With delivery to be made by registered mail, obtaining signature of addressee or authorized agent is required. Delivery employee's signature can be left in secure location and I authorize delivery employee's signature to be left in secure location.	
COD Fee \$		NO DELIVERY <input type="checkbox"/> Weekday <input type="checkbox"/> Holiday <input type="checkbox"/>	
Insurance Fee \$		Customer Signature	
Total Postage & Fees \$		Federal Agency Acct. No. or Postal Service Acct. No.	
Acceptance & Em. Initials			

<b>CUSTOMER USE ONLY</b>	
METHOD OF PAYMENT:	
FROM: (PLEASE PRINT) EDWARDUS ANGELL PALMER & ODDGE LLP 101 FEDERAL ST FL 24 BOSTON MA 02110-1800 USA	
PHONE: 617 951 2211	
TO: (PLEASE PRINT) MISSING Parts COMMISSIONER FOR PATENTS PO BOX 1450 ALEXANDRIA VA 22313-1450	
SBW/hmm 64995 (70904)	

FOR PICKUP OR TRACKING: Visit [www.usps.com](http://www.usps.com) or Call 1-800-222-1811

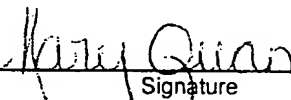
EV809094404US

## Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EV 809094404 US in an envelope addressed to:

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on June 12, 2007  
Date

  
Signature

Mary Quan

Typed or printed name of person signing Certificate

Registration Number, if applicable

(617) 439-4444  
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Certificate of Express Mailing (1 page)  
One Month Request for Extension of Time Under 37 CFR 1.136(a) (1 page)  
Fee Transmittal (1 page)  
Response to Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office (DO/EO/US) (2 pages)  
Combined Declaration and Power of Attorney (4 pages)  
Sequence Listing Diskette  
Sequence Listing Paper Copy (222 pages)  
Statement Pursuant to 37 CFR 1.821(f) (2 pages)  
Part 2 Copy of Notice (2 pages)  
Return Receipt Postcard  
Charge \$250.00 to deposit account 04-1105

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2007</b>		<b>Complete if Known</b>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/570,589
		Filing Date	February 28, 2006
		First Named Inventor	Kazuhiro Kondo
		Examiner Name	Not Yet Assigned
		Art Unit	N/A
TOTAL AMOUNT OF PAYMENT		(\$)	250.00
		Attorney Docket No.	64995(70904)

## METHOD OF PAYMENT (check all that apply)

☐ Check    ☐ Credit Card    ☐ Money Order    ☐ None    ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account    Deposit Account Number: 04-1105    Deposit Account Name: Edwards Angell Palmer & Dodge LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below    ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17    ☒ Credit any overpayments

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
$\text{HP} = \text{highest number of total claims paid for, if greater than 20.}$						
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>			
$\text{HP} = \text{highest number of independent claims paid for, if greater than 3.}$						


## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
<u>        </u>	<u>        </u>	<u>        </u>	<u>        </u>	<u>        </u>

## 4. OTHER FEE(S)

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge): 1251 Extension for response within first month	120.00
1051 Surcharge-Late oath or declaration	130.00

SUBMITTED BY		Registration No. (Attorney/Agent)	55,854	Telephone	(617) 439-4444
Signature				Date	June 12, 2007
Name (Print/Type)	Scott B. Weston				

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

In re Patent Application of:  
Kazuhiro Kondo

Application No.: 10/570,589

Confirmation No.: N/A

Filed: February 28, 2006

Art Unit: N/A

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

---

Examiner: Not Yet Assigned

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371  
IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office (DO/EO/US) – Filing Date Granted mailed March 12, 2007, Applicant respectfully submits a Combined Declaration and Power of Attorney, a Sequence Listing Diskette, a Sequence Listing Paper Copy, Statement Pursuant to 37 CFR 1.821(f), a Petition for Extension of Time, and Part 2 Copy of Notice.

Please charge our Deposit Account No. 04-1105 in the amount of \$250.00 covering the fees set forth in 37 CFR 1.17(a)(1) and 1.16(f). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by

this firm) to our Deposit Account No. 04-1105, under Order No. 64995(70904). A duplicate copy of this paper is enclosed.

Dated: June 12, 2007

Respectfully submitted,

By 

Scott B. Weston

Registration No.: 55,854

EDWARDS ANGELL PALMER & DODGE  
LLP


P.O. Box 55874

Boston, Massachusetts 02205

(617) 439-4444

Attorneys/Agents For Applicant

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2006</b> (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)		Docket Number (Optional) 64995(70904)																									
Application Number 10/570,589		Filed February 28, 2006																									
For <b>RECOMBINANT VIRUS VECTOR ORIGINATING IN HHV-6 OR HHV-7 METHOD OF PRODUCING THE SAME, METHOD OF TRANSFORMING HOST CELL USING THE SAME, HOST CELL TRANSFORMED THEREBY AND GENE THERAPY METHOD USING THE SAME</b>																											
Art Unit N/A		Examiner Not Yet Assigned																									
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.</p> <p>The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%; text-align: center;"><u>Fee</u></th> <th style="width: 15%; text-align: center;"><u>Small Entity Fee</u></th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))</td> <td style="text-align: center;">\$120</td> <td style="text-align: center;">\$60</td> <td style="text-align: right;">\$ 120.00</td> </tr> <tr> <td><input type="checkbox"/> Two months (37 CFR 1.17(a)(2))</td> <td style="text-align: center;">\$450</td> <td style="text-align: center;">\$225</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Three months (37 CFR 1.17(a)(3))</td> <td style="text-align: center;">\$1020</td> <td style="text-align: center;">\$510</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Four months (37 CFR 1.17(a)(4))</td> <td style="text-align: center;">\$1590</td> <td style="text-align: center;">\$795</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Five months (37 CFR 1.17(a)(5))</td> <td style="text-align: center;">\$2160</td> <td style="text-align: center;">\$1080</td> <td style="text-align: right;">\$ _____</td> </tr> </tbody> </table> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input checked="" type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>04-1105</u>. I have enclosed a duplicate copy of this sheet.</p> <p>I am the <input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>55,854</u></p> <p><input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p style="text-align: center;"> _____ Signature</p> <p style="text-align: center;">June 12, 2007 _____ Date</p> <p style="text-align: center;">Scott B. Weston _____ Typed or printed name</p> <p style="text-align: center;">(617) 439-4444 _____ Telephone Number</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input type="checkbox"/> Total of <u>1</u> forms are submitted.</p>					<u>Fee</u>	<u>Small Entity Fee</u>		<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ 120.00	<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____	<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ _____	<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____	<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____
	<u>Fee</u>	<u>Small Entity Fee</u>																									
<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ 120.00																								
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____																								
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ _____																								
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____																								
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____																								

EDWARDS ANGELL PALMER & DODGE LLP  
P. O. Box 55874  
Boston, Massachusetts 02205

Docket No.

### DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed at 201) below or an original, first and joint inventor (if plural names are listed at 201-206 below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

RECOMBINANT VIRUS VECTOR ORIGINATING IN HHV-6 OR HHV-7, METHOD OF PRODUCING THE SAME, METHOD OF TRANSFORMING HOST CELL USING THE SAME, HOST CELL TRANSFORMED THEREBY AND GENE THERAPY METHOD USING THE SAME  
which is described and claimed in:

☐ the specification attached hereto.

☒ the specification in U.S. Application Serial Number 10/570,589, filed on February 28, 2006.

☒ the specification in PCT international application Number, PCT/JP2004/012487 filed on August 30, 2004; and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a). I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign/PCT Applications and Any Priority Claims Under 35 U.S.C. §119:			
Application No.	Filing Date	Country	Priority Claimed Under 35 U.S.C. §119?
2003-307335	August 29, 2003	Japan	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 CFR §1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Prior U.S. Applications or PCT International Applications Designating the U.S-Benefit Under 35 U.S.C. §120				
U.S. Applications		Status (Check One)		
Application Serial No.	U.S. Filing Date	Patented	Pending	Abandoned
PCT Applications Designating the U.S.				
Application No.	Filing Date	U.S. Serial No. Assigned		

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)**  
(35 U.S.C. §119(e))

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below:

Applicant	Provisional Application Number	Filing Date

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) with full powers of association, substitution and revocation to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

**ALL PRACTITIONERS ASSOCIATED WITH CUSTOMER NO. 21874**

<b>SEND CORRESPONDENCE TO:</b>  Edwards Angell Palmer & Dodge LLP P. O. Box 55874 Boston, Massachusetts 02205	<b>DIRECT TELEPHONE CALLS TO:</b>
---	-----------------------------------



201	FULL NAME OF INVENTOR	LAST NAME <b>KONDO</b>	FIRST NAME <b>Kazuhiro</b>	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY <b>Tokyo Japan</b>	COUNTRY OF CITIZENSHIP <b>Japan</b>
	POST OFFICE ADDRESS	POST OFFICE ADDRESS <b>5-36-11-801, Hakusan Bunkyo-ku</b>	CITY	STATE OR COUNTRY AND ZIP CODE <b>Tokyo 112-0001 Japan</b>
202	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE
203	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE
204	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE
205	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE
206	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature of Inventor 201 <i>Kazuhiko Honda</i>	Signature of Inventor 202
Date: <i>May 12th / 2006</i>	Date:
Signature of Inventor 203	Signature of Inventor 204
Date:	Date:
Signature of Inventor 205	Signature of Inventor 206
Date:	Date:

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

In re Patent Application of:  
Kazuhiro Kondo

Application No.: 10/570,589

Confirmation No.: N/A

Filed: February 28, 2006

Art Unit: N/A

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

---

Examiner: Not Yet Assigned

**STATEMENT PURSUANT TO 37 CFR 1.821(f)**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith for filing in connection with the above-referenced patent application is a labeled, computer readable copy of the Sequence Listing included in the application.

I hereby state that I have reviewed the paper copy of the Sequence Listing contained on pages 1 to 222 of said Sequence Listing, as required by 37 CFR 1.821(c), and have reviewed the computer readable form of the Sequence Listing, as required by 37 CFR 1.821(e), and that the content of the paper and computer readable copies for the above-referenced patent application are the same as required by 37 CFR 1.821(f).

Early favorable consideration of the patent application is respectfully solicited.

Dated: June 12, 2007

Respectfully submitted,

By: 

Scott B. Weston

Registration No.: 55,854

EDWARDS ANGELL PALMER & DODGE  
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 439-4444

Attorneys/Agents For Applicant

REPRODUCTION OF THIS DOCUMENT IS PROHIBITED

NOV 19 1964

NOV 19 1964

CHRISTIANITY

64993 (70904)

Serial No. 10,570,589

Supplemental Listing

Express Mail #1609097-105

TO NOT BE REPRODUCED

AVOID EXPOSURE TO ALL AGENTS OF THE FBI



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

INTERNATIONAL APPLICATION NO.

PCT/JP04/12487

I.A. FILING DATE

PRIORITY DATE

08/30/2004

08/29/2003

21874

EDWARDS & ANGELL, LLP  
 P.O. BOX 55874  
 BOSTON, MA 02205

CONFIRMATION NO. 5282

371 FORMALITIES LETTER



\*OC000000022852776\*

Date Mailed: 03/12/2007

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Biochemical Sequence Listing filed on 02/28/2006
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

## SUMMARY OF FEES DUE:

Total additional fees required for this application is \$1000 for a Large Entity:

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37

FILED ON SYSTEM  
 SEE OTHER SIDE

CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

- The fee for submitting a specification and drawing containing more than 100 pages has not been paid in full. Applicant owes \$1000 for 175 pages in excess of 150 pages for a large entity.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

Telephone: (703) 308-9140 EXT 215

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/570,589	PCT/JP04/12487	6499570904



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

21874  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

INTERNATIONAL APPLICATION NO.	
PCT/JP04/12487	
I.A. FILING DATE	PRIORITY DATE
08/30/2004	08/29/2003

**CONFIRMATION NO. 5282**  
**371 FORMALITIES LETTER**



Date Mailed: 06/13/2008

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Oath or Declaration filed on 06/12/2007
- Biochemical Sequence Listing filed on 06/12/2007
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

Applicant's response filed 06/12/2007 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 03/12/2007 have not been completed.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$1040** for a Large Entity:

- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

**Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR**



**1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).**

- The fee for submitting a specification and drawing containing more than 100 pages has not been paid in full. Applicant owes **\$1040** for **175** pages in excess of **150** pages for a large entity.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)**

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

---

Telephone: (703) 308-9140 EXT 215



1 514-28...

PCT  
9

Application No. (if known): 10/570,589

Attorney Docket No.: 64995(70904)

## Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EM258211984US in an envelope addressed to:

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on July 11, 2008  
Date

Signature

Lynn Marcus

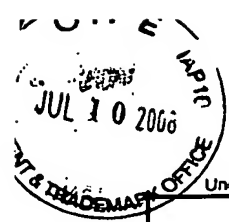
Typed or printed name of person signing Certificate

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Response to Notification of Defective Response (2 pages)  
Fee Transmittal (1 page)  
Statement Pursuant to 37 CFR 1.821(f) (2 pages)  
Sequence Listing Diskette  
Sequence Listing Paper Copy (222 pages)  
Copy of Notice of Defective Response (2 pages)



<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b> <b>FEE TRANSMITTAL</b> <b>For FY 2008</b>		<b>Complete if Known</b>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/570,589-Conf. #5282
TOTAL AMOUNT OF PAYMENT (\$)		Filing Date	February 28, 2006
1,040.00		First Named Inventor	Kazuhiro Kondo
		Examiner Name	Not Yet Assigned
		Art Unit	N/A
		Attorney Docket No.	64995(70904)

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account      Deposit Account Number: 04-1105      Deposit Account Name: Edwards Angell Palmer & Dodge LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below      ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17      ☒ Credit any overpayments

**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

**Total Claims**      **Extra Claims**      **Fee (\$)**      **Fee Paid (\$)**

26 - 28 =        x        =       

HP = highest number of total claims paid for, if greater than 20.

**Indep. Claims**      **Extra Claims**      **Fee (\$)**      **Fee Paid (\$)**

4 - 4 =        x        =       

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
<u>275</u>	- 100 = <u>175</u>	/50 = <u>4</u> (round up to a whole number) x	<u>260.00</u>	= <u>1,040.00</u>

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): \_\_\_\_\_

**Fees Paid (\$)**

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	34,558
Name (Print/Type)	Gregory B. Butler, Ph.D., Esq.	Telephone	(617) 517-5595
		Date	July 11, 2008

07/17/2008 GFREY1 00000035 041105 10570589  
01 FC:1681 1040.00 DA



Docket No.: 64995(70904)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Kazuhiro Kondo

Application No.: 10/570,589

Filed: February 28, 2006

Confirmation No.: 5282

Art Unit: N/A

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

Examiner: Not Yet Assigned

**RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notification of Defective Response mailed June 13, 2008, Applicant respectfully submits a Sequence Listing Diskette, a Sequence Listing Paper Copy, Statement Pursuant to 37 CFR 1.821(f), and a copy of the Notice.

Please charge our Deposit Account No. 04-1105 in the amount of \$1,040.00 covering the fees set forth in 37 CFR 1.17(a)(1) and 1.16(f). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 64995(70904). A duplicate copy of this paper is enclosed.

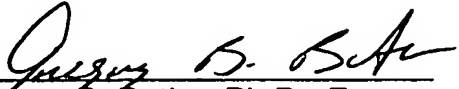
Application No.: 10/570,589

2

Docket No.: 64995(70904)

Dated: July 13, 2008

Respectfully submitted,

By 

Gregory B. Butler, Ph.D., Esq.

Registration No.: 34,558

EDWARDS ANGELL PALMER & DODGE  
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 439-4444

Attorneys/Agents For Applicant

Customer No. 21874

Docket No.: 64995(70904)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Kazuhiro Kondo

Application No.: 10/570,589

Confirmation No.: 5282

Filed: February 28, 2006

Art Unit: N/A

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

Examiner: Not Yet Assigned

**STATEMENT PURSUANT TO 37 CFR 1.821(f)**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

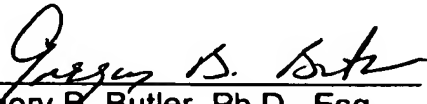
Submitted herewith for filing in connection with the above-referenced patent application is a labeled, computer readable copy of the Sequence Listing included in the application.

I hereby state that I have reviewed the paper copy of the Sequence Listing contained on pages 1 to 222 of said Sequence Listing, as required by 37 CFR 1.821(c), and have reviewed the computer readable form of the Sequence Listing, as required by 37 CFR 1.821(e), and that the content of the paper and computer readable copies for the above-referenced patent application are the same as required by 37 CFR 1.821(f). No new matter has been added.

Early favorable consideration of the patent application is respectfully solicited.

Dated: July 11, 2008

Respectfully submitted,

By   
Gregory B. Butler, Ph.D., Esq.

Registration No.: 34,558

EDWARDS ANGELL PALMER & DODGE  
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 239-0100

Attorneys/Agents For Applicant



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

21874  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

INTERNATIONAL APPLICATION NO.	
PCT/JP04/12487	
I.A. FILING DATE	PRIORITY DATE
08/30/2004	08/29/2003

**CONFIRMATION NO. 5282**  
**371 FORMALITIES LETTER**



Date Mailed: 06/13/2008

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Oath or Declaration filed on 06/12/2007
- Biochemical Sequence Listing filed on 06/12/2007
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

Applicant's response filed 06/12/2007 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 03/12/2007 have not been completed.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$1040** for a Large Entity:

- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

**Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR**



**1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).**

- The fee for submitting a specification and drawing containing more than 100 pages has not been paid in full. Applicant owes \$1040 for 175 pages in excess of 150 pages for a large entity.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

---

Telephone: (703) 308-9140 EXT 215



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

21874  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

INTERNATIONAL APPLICATION NO.	
PCT/JP04/12487	
I.A. FILING DATE	PRIORITY DATE
08/30/2004	08/29/2003

**CONFIRMATION NO. 5282**  
**371 FORMALITIES LETTER**



Date Mailed: 09/12/2008

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Biochemical Sequence Diskette filed on 07/10/2008
- Oath or Declaration filed on 06/12/2007
- Biochemical Sequence Listing filed on 06/12/2007
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

Applicant's response filed 07/10/2008 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 03/12/2007 have not been completed.

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF. Refer to attachment or PAIR document dated see report dated 07/10/08.

**Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).**

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)**

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

---

Telephone: (703) 308-9140 EXT 215

**Atty Docket No.:** 64995(70904)

**Inventor:** Kazuhiro Kondo

**Application No.:** 10/570,589-Conf. #5282      **Filing Date:** February 28, 2006  
**Title:** RECOMBINANT VIRUS VECTOR ORIGINATING IN HHV-6 OR HHV-7 METHOD  
OF PRODUCING THE SAME, METHOD OF TRANSFORMING HOST CELL USING  
THE SAME, HOST CELL TRANSFORMED THEREBY AND GENE THERAPY  
METHOD USING THE SAME

**Documents Filed:**

Certificate of Express Mailing (1 page)

Response to Notification of Defective Response (2 pages)

Sequence Listing Statement (2 pages)

Sequence Listing Diskette

Sequence Listing Paper Copy (222 pages)

Copy of Notice of Defective Response (2 pages)

**Via:** Express Mail: Airbill No. EM258210860US

**Sender's Initials:** GBB/lm

**Date:** October 14, 2008

EM258210860US

PRESS HARD. YOU ARE MAKING 3 COPIES.

<b>ORIGIN (POSTAL SERVICE USE ONLY)</b>		<b>POSTAGE</b>	
PO ZIP Code	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 2nd Del. Day	Scheduled Date of Delivery	
Date Accepted	Month	Day	Return Receipt Fee
Mo. Day Year	Scheduled Time of Delivery	COD Fee	Insurance Fee
Time Accepted <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Noon <input type="checkbox"/> 3 PM	Total Postage & Fees	
Flat Rate <input type="checkbox"/> or Weight	Military <input type="checkbox"/>	Acceptance Emp. Initials	
Int'l Alpha Country Code			

<b>CUSTOMER USE ONLY</b>	
FROM: (PLEASE PRINT)	PHONE
EDWARDS ANGELL PALMER & ODDGE LLP PO BOX 55874 BOSTON USA	617, 951-2211
L GBB/lem 70904/64995	

FOR PICKUP OR TRACKING: Visit [www.usps.com](http://www.usps.com)



EM 258210860 US



EM 258210860 US



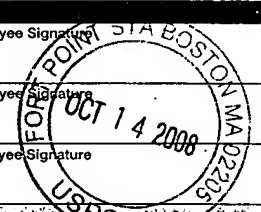
UNITED STATES POSTAL SERVICE®

Customer Copy  
Label 11-F, April 2004

Post Office To Addressee

<b>ORIGIN (POSTAL SERVICE USE ONLY)</b>	
PO ZIP Code	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 2nd Del. Day
Date Accepted	Scheduled Date of Delivery
Mo. Day Year	Month Day
Time Accepted	Scheduled Time of Delivery
<input type="checkbox"/> Noon <input checked="" type="checkbox"/> 3 PM	COD Fee
Flat Rate <input type="checkbox"/> or Weight	Insurance Fee
Int'l Alpha Country Code	Total Postage & Fees
	Acceptance Emp. Initials

<b>DELIVERY (POSTAL USE ONLY)</b>	
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Mo. Day	Employee Signature
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Mo. Day	Employee Signature
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Mo. Day	Employee Signature
<input type="checkbox"/> <b>WAIVER OF SIGNATURE (Domestic Mail Only)</b> Additional merchandise is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.	
<b>NO DELIVERY</b> <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	



**CUSTOMER USE ONLY**  
METHOD OF PAYMENT:  
Express Mail Corporate Acct. No.

Federal Agency Acct. No. or  
Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE 617, 951 2211

EDWARDS ANGELL PALMER &  
ODDGE LLP  
PO BOX 55874  
BOSTON  
USA

MA 02205-5874

L GBB/lem 70904/64995

TO: (PLEASE PRINT) PHONE

COMMISSIONER FOR PATENTS  
PO BOX 1450  
ALEXANDRIA  
VA 22313-1450

MS Missing Parts

FOR PICKUP OR TRACKING: Visit [www.usps.com](http://www.usps.com) or Call 1-800-222-1811



## Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EM258210860US in an envelope addressed to:

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on October 14, 2008  
Date

  
Signature

Lynn Marcus  
Typed or printed name of person signing Certificate

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Response to Notification of Defective Response (2 pages)  
Sequence Listing Statement (2 pages)  
Sequence Listing Diskette  
Sequence Listing Paper Copy (222 pages)  
Copy of Notice of Defective Response (2 pages)

Docket No.: 64995(70904)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

In re Patent Application of:  
Kazuhiro Kondo

Application No.: 10/570,589

Filed: February 28, 2006

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

---

Confirmation No.: 5282

Art Unit: N/A

Examiner: Not Yet Assigned

**RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notification of Defective Response mailed September 12, 2008, Applicant respectfully submits a Sequence Listing Diskette, a Sequence Listing Paper Copy, Statement Pursuant to 37 CFR 1.821(f), and a copy of the Notice.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 64995(70904). A duplicate copy of this paper is enclosed.


Application No.: 10/570,589

2

Docket No.: 64995(70904)

Dated: October 14, 2008

Respectfully submitted,

By 

Gregory B. Butler, Ph.D., Esq.

Registration No.: 34,558

EDWARDS ANGELL PALMER & DODGE

LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 439-4444

Attorneys/Agents For Applicant

Customer No. 21874



Docket No.: 64995(70904)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

In re Patent Application of:  
Kazuhiro Kondo

Application No.: 10/570,589

Confirmation No.: 5282

Filed: February 28, 2006

Art Unit: N/A

For: RECOMBINANT VIRUS VECTOR  
ORIGINATING IN HHV-6 OR HHV-7  
METHOD OF PRODUCING THE SAME,  
METHOD OF TRANSFORMING HOST  
CELL USING THE SAME, HOST CELL  
TRANSFORMED THEREBY AND GENE  
THERAPY METHOD USING THE SAME

---

Examiner: Not Yet Assigned

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**SEQUENCE LISTING STATEMENT**

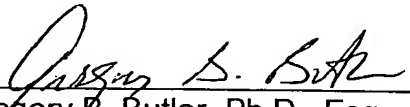
Submitted herewith for filing in connection with the above-referenced patent application is a paper copy of a sequence listing and a computer readable format of a sequence listing.

I hereby state that the paper version of the Sequence Listing and the computer readable file of the Sequence Listing are the same. No new matter has been added by virtue of the within submission.

Early favorable consideration of the patent application is respectfully solicited.

Dated: October 14, 2008

Respectfully submitted,

By   
Gregory B. Butler, Ph.D., Esq.

Registration No.: 34,558

Customer No. 21874

EDWARDS ANGELL PALMER & DODGE  
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 239-0100

Attorneys/Agents For Applicant



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

21874  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

INTERNATIONAL APPLICATION NO.	
PCT/JP04/12487	
I.A. FILING DATE	PRIORITY DATE
08/30/2004	08/29/2003

CONFIRMATION NO. 5282  
371 FORMALITIES LETTER



Date Mailed: 09/12/2008

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Biochemical Sequence Diskette filed on 07/10/2008
- Oath or Declaration filed on 06/12/2007
- Biochemical Sequence Listing filed on 06/12/2007
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

Applicant's response filed 07/10/2008 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 03/12/2007 have not been completed.

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF. Refer to attachment or PAIR document dated see report dated 07/10/08.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

---

Telephone: (703) 308-9140 EXT 215



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/570,589	Kazuhiro Kondo	6499570904

21874  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

INTERNATIONAL APPLICATION NO.	
PCT/JP04/12487	
I.A. FILING DATE	PRIORITY DATE
08/30/2004	08/29/2003

CONFIRMATION NO. 5282

371

ABANDONMENT/TERMINATION  
LETTER



\*OC000000036363044\*

Date Mailed: 06/09/2009

**NOTIFICATION OF ABANDONMENT**

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 03/12/2007 within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

FRANCINE YOUNG

Telephone: (703) 756-1462

**SCORE****CRF Problem Report**

SCORE experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 10570589  
CRF Filing Date: 08/28/08  
Date Processed by SCORE: 10/20/08

Contact: Electronic Business Center: Telephone: 866-217-9197

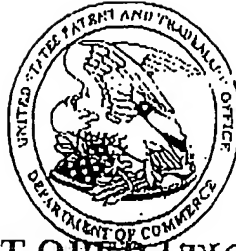
**Nature of CRF Problem:**

- ☐ (circle one) Damaged or Unreadable  
☐ Blank (no files on CRF)  
☐ Empty file (filename present, but no bytes in file)  
☒ Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application) • doc  
☐ Not saved in ASCII text  
☐ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should only be the Sequence Listing.  
☐ Did not contain a Sequence Listing.  
☐ Other:

**PLEASE USE THE CHECKER VERSION 4.4.0 PROGRAM TO REDUCE ERRORS.  
SEE BELOW FOR ADDRESS:**

<http://www.uspto.gov/web/offices/pac/checker/cbkrnote.htm>

Revised 01/20/06



PCT OPERATIONS  
UNITED STATES PATENT AND TRADEMARK OFFICE

PCT OPERATIONS

FACSIMILE TRANSMISSION COVER SHEET

DATE: 19 June 2009

TO: Greg Butler

TELEPHONE: 617-517-5595  
FAX NO.: 888-335-9217

FROM: Francine Young

TELEPHONE: 703-756-1462  
FAX NO.: \_\_\_\_\_

MESSAGE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NUMBER OF PAGES 2 (INCLUDING THIS PAGE)



UNITED STATES PATENT AND TRADEMARK OFFICE

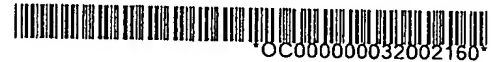
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/570,589	FIRST NAMED APPLICANT Kazuhiro Kondo	ATTY. DOCKET NO. 6499570904
---	---	--------------------------------

21874  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

INTERNATIONAL APPLICATION NO. PCT/JP04/12487	
I.A. FILING DATE 08/30/2004	PRIORITY DATE 08/29/2003

CONFIRMATION NO. 5282  
371 FORMALITIES LETTER



Date Mailed: 09/12/2008

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 02/28/2006
- English Translation of the IA filed on 02/28/2006
- Copy of the International Search Report filed on 02/28/2006
- Preliminary Amendments filed on 02/28/2006
- Information Disclosure Statements filed on 02/28/2006
- Biochemical Sequence Diskette filed on 07/10/2008
- Oath or Declaration filed on 06/12/2007
- Biochemical Sequence Listing filed on 06/12/2007
- U.S. Basic National Fees filed on 02/28/2006
- Priority Documents filed on 02/28/2006

Applicant's response filed 07/10/2008 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 03/12/2007 have not been completed.

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF. Refer to attachment or PAIR document dated see report dated 07/10/08.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).



Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

FRANCINE YOUNG

---

Telephone: (703) 308-9140 EXT 215

## SCORE

### CRF Problem Report

SCORE experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 10570589  
CRF Filing Date: 08/28/08  
Date Processed by SCORE: 10/20/08

Contact: Electronic Business Center: Telephone: 866-217-9197

#### Nature of CRF Problem:

- ☐ (circle one) Damaged or Unreadable
- ☐ Blank (no files on CRF)
- ☐ Empty file (filename present, but no bytes in file)
- ☒ Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application) • DOC
- ☐ Not saved in ASCII text
- ☐ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should only be the Sequence Listing.
- ☐ Did not contain a Sequence Listing.
- ☐ Other: \_\_\_\_\_

PLEASE USE THE CHECKER VERSION 4.4.0 PROGRAM TO REDUCE ERRORS.  
SEE BELOW FOR ADDRESS:

<http://www.uspto.gov/web/offices/pac/checker/chkrnote.htm>

Revised 01/20/06



**PCT OPERATIONS**  
**UNITED STATES PATENT AND TRADEMARK OFFICE**

**PCT OPERATIONS**

FACSIMILE TRANSMISSION COVER SHEET

DATE: 19 June 2009

TO: Greg Butler

TELEPHONE: 617-517-5595  
FAX NO.: 888-335-9217

FROM: Francine Young

TELEPHONE: 703-756-1462  
FAX NO.:

MESSAGE:

NUMBER OF PAGES 2 (INCLUDING THIS PAGE)